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Letter Ruling 82-91: Installment Sale of Non-Massachusetts Real Estate; Credit for Income Taxes Paid

September 29, 1982

Your client, ***** a Massachusetts resident, sold real property located in New York in 1982. He will receive payment in three annual installments. The first installment, which exceeded thirty per cent of the sale price of the property, was received in 1982. Under Section 453(b) of the Internal Revenue Code, as most recently amended, and under New York tax law, he will recognize income, and pay taxes thereon, on an installment basis on both his federal and New York income tax returns.

For Massachusetts personal income tax purposes references to the "Code" mean the Internal Revenue Code as amended on November 6, 1978. (G.L. c. 62, s. 1(c)). This transaction does not qualify for installment sale treatment under Code Section 453(b)(2)(B) as amended on that date. Your client must, therefore, report the entire capital gain on his 1982 Massachusetts tax return. You ask whether he will be allowed a credit against his Massachusetts tax liability for 1983 and 1984 for taxes due to the State of New York for those years. Massachusetts General Laws Chapter 62, Section 2 defines Massachusetts gross income as federal gross income, with certain modifications.

Massachusetts General Laws Chapter 62, Section 63(e) provides that when the effect of Section 453 of the Code is eliminated and income from an installment transaction is recognized in one taxable year, income from that transaction in subsequent years is subtracted from federal gross income in determining Massachusetts gross income. Therefore, your client will have no income from this transaction in 1983 or 1984 for Massachusetts purposes.

General Laws Chapter 62, Section 6(a) says, in relevant part:

"A credit shall be allowed against taxes imposed by this chapter to a resident for taxes due any other state...on account of any item of Massachusetts gross income subject to the following restrictions and limitations: (i) the amount of such taxes due on such income shall exclude interest and penalties; (ii) the amount of such taxes due shall be reduced by any federal credit therefor allowable on the resident's federal income tax return; and (iii) the amount of the credit allowable shall be the lesser of such taxes as reduced by (i) and (ii), or the amount of tax imposed by this chapter multiplied by a fraction the numerator of which is such item of Massachusetts Part A...gross income and the denominator of which is the total Massachusetts Part A...gross income..."

Your client will report all his capital gain income from this sale on his 1982 Massachusetts tax return, and will be entitled to a credit for 1982 income taxes due to New York on the gain. However, he will have no tax "on account of any item of Massachusetts income" for 1983 or 1984 corresponding to this capital gain income. He will therefore not be entitled to a credit against his Massachusetts income tax liability on account of any tax imposed by New York relative to this transaction for those years.

Very truly yours,

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/s/L. Joyce Hampers

L. Joyce Hampers
Commissioner of Revenue

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